

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 3**

STARBUCKS CORPORATION

Employer

and

Case 03-RD-316974

(b) (6), (b) (7)(C)

Petitioner

and

WORKERS UNITED

Union

DECISION AND ORDER DISMISSING PETITION

On April 28, 2023, (b) (6), (b) (7)(C) (Petitioner) filed a petition seeking to decertify Workers United (Union) as the exclusive collective-bargaining representative of the following appropriate unit of employees employed by Starbucks Corporation (Employer):

All full-time and regular part-time Baristas, Shift Supervisors, and Assistant Store Managers employed by the Employer at its store located at 235 Delaware Avenue, Buffalo, New York 14202,^[1] excluding office clerical employees, guards, professional employees and supervisors as defined in the Act.

On May 3, 2023, I issued an Order to Show Cause and Order Indefinitely Postponing Hearing in this matter directing the parties to submit their positions as to the following:

Whether the instant petition should be dismissed, subject to reinstatement, based on the unfair labor practices found in cases 03-CA-295810 et al., 19-CA-294579 et al., and 01-CA-305952 et al. See generally *Rieth-Riley Construction Co.*, 371 NLRB No. 109 (2022). More specifically, whether the unfair labor practices alleged in these complaints, which include allegations that the Employer unlawfully refused to bargain with the Union, if proven, would require the remedy of a bargaining order and extension of the certification year thereby precluding the existence of a question concerning representation. See *Big Three Industries*, 201 NLRB 197 (1973); *Brannan Sand & Gravel*, 308 NLRB 922 (1992), NLRB Casehandling Manual Part II, *Representation Proceedings*, Section 11733.1(a)(2), 11733.1(a)(3) and 11730.3(b). Further, whether the unfair labor practices alleged in these complaints, 03-CA-295810 et

¹ Hereafter referred to as “the DelChip store.”

al., 19-CA-294579 et al., and 01-CA-305952 et al., if proven, would have caused the employee disaffection underlying the decertification petition. See *Master Slack Corp.*, 271 NLRB 78, 84 (1984).

Each of the parties submitted its position in response to this order. As discussed in fuller detail below, the Employer and the Petitioner urge that the petition continue to be processed and the Union contends that it should be dismissed.

After carefully reviewing the parties' positions, the relevant law, and the circumstances of this case, I have concluded that the unfair labor practices at issue in the complaints cited above warrant dismissal of this petition, subject to reinstatement of the petition after disposition of the pending unfair labor practice cases.

THE UNION'S CERTIFICATION

On February 1, 2022, the Union filed a petition seeking to represent employees at the DelChip store. The election was conducted by mail during the period of March 16 – April 6, 2022. At the ballot count held on April 7, 2022, the Union prevailed by a margin of 18-1 and was certified as the collective-bargaining representative of the DelChip unit on April 15, 2022.

COMPLAINT ALLEGATIONS IN 19-CA-294579 ET AL.

On October 4, 2022, the Regional Director of Region 19 issued Orders Severing Case and Further Consolidating cases, Amended Further Consolidated Complaint and Notice of Hearing in cases 19-CA-294579 et al. This complaint contains allegations that the Employer, inter alia, violated Section 8(a)(1) and (3) of the Act by the following conduct affecting employees at the DelChip store:²

- 1) On or about (b) (6), (b) (7)(C), 2022, the Employer, by (b) (6), (b) (7)(C), by video call to employees at its U.S. stores:
 - a. Promised increased benefits and improved terms and conditions of employment if they refrained from any union organizational activity and/or, by soliciting employee complaints and grievances, impliedly promised such increased benefits and terms and conditions of employment by stating:
 - i. "I am listening. We are going to fix the near-term problems. We are going to fix the bigger issues of training, wages, and the other issues facing the company and the challenges the partners are having."
 - ii. "We are going to make much better long-term decisions that are going to have a short-term benefit for you."

² The complaint allegations listed below have been edited slightly for clarity, including renumbering complaint paragraphs for consistency within this Order and a reflection that in the instant proceeding, Starbucks Corporation is not a "Respondent."

- iii. “I promise we are going to make things better for you. We are going to give you the tools and resources to do your job.”
 - iv. Respondent is “working diligently looking at benefits, looking at wages, just stay tuned.”
 - b. Threatened its employees and/or informed its employees that it would be futile for them to select the Union as their bargaining representative by stating: “Under the law, those stores that voted to be a part of a union, during this collective bargaining process, which we are going to honor, by law, any new benefit that we create for the company, we are not permitted by law, to offer that benefit to stores that voted for the union while they are in collective bargaining.”
- 2) On about April 25, 2022, the Employer, in writing by its corporate weekly update, promised its employees at U.S. stores increased benefits and improved terms and conditions of employment by informing them that it would be announcing on May 3, 2022, the ways in which it would be incorporating employee feedback regarding better pay, more consistent scheduling, additional opportunities for career development, and improved training.
- 3) On or about (b) (6), (b) (7)(C) 2022, the Employer, by (b) (6), (b) (7)(C) in a Quarter 2 2022 Earnings Call:
- a. Informed its employees at U.S. stores that it would be futile for them to select the Union as their bargaining representative by stating: “Compare any union contract in our sector to the constantly expanding list of wages and benefits we have provided our people for decades and the union contract will not even come close to what Starbucks offers,” and
 - b. Promised increased wages and benefits at U.S. stores if its employees rejected the Union as their bargaining representative by stating: “partners at Starbucks US company-operated stores where we have the right to unilaterally make these changes will receive these wages and benefit enhancements....We do not have the same freedom to make these improvements at locations that have a union or where union organizing is underway.”
- 4) On about (b) (6), (b) (7)(C) 2022, the Employer, by (b) (6), (b) (7)(C) in writing, promised its employees that it would implement the following benefits for employees at U.S. stores where employees have not sought union representation:
- a. Increasing wages;
 - b. Doubling training hours;
 - c. Reintroducing the Black Aprons, Coffee Master program, and Leadership in Origin trips to the Employer’s coffee farm;
 - d. Creating new collaboration tools and programs, including a new partner app;
 - e. Investing in equipment and technology;
 - f. Enhancing digital tipping; and
 - g. Adding career development opportunities.

- 5) On or about May 3, 2022, the Employer, by writing in its Partner FAQs handouts for U.S. company-operated Partner Investments entitled “We are Creating Our Future Together as Partners” and “Implementation of Benefits,” promised its employees that it would implement the following benefits for employees at its U.S. stores where employees have not sought union representation:
 - a. Increased wages, beginning on August 1, 2022, for those hourly employees:
 - i. Hired before May 3, 2022, either a 3 percent wage increase or an increase to \$15 an hour, whichever is higher;
 - ii. With 2 to 5 years of experience, either a 5 percent wage increase or move to 5 percent above the start rate, whichever is higher; and
 - iii. With 5 or more years of service, either a 7 percent wage increase or move to 10 percent above the start rate, whichever is higher;
 - b. Enhanced in-app tipping and unlocked credit card tipping;
 - c. Increased training for new and existing employees;
 - d. Updated dress code policies;
 - e. Faster sick time accrual;
 - f. New opportunities for career mobility;
 - g. Creation of a Partner App;
 - h. Upgrades to in-store technology and equipment; and
 - i. Reinstated Coffee Master and Black Aprons.
- 6) On about May 9, 2022, the Employer, by writing in a weekly corporate update, promised its employees at U.S. stores where employees have not sought union representation that it would implement the benefits described above in paragraph 5.
- 7) On or about June 11, 2022, the Employer, in writing by a handout entitled “Creating Our Future Together as Partners,” promised its employees that it would implement the following benefits only for employees at its U.S. stores where employees have not sought union representation:
 - a. Increased wages, beginning on August 1, 2022, for those hourly employees:
 - i. Hired before May 3, 2022, either a 3 percent wage increase or an increase to \$15 an hour, whichever is higher;
 - ii. With 2 to 5 years of experience, either a 5 percent wage increase or move to 5 percent above the start rate, whichever is higher; and
 - iii. With 5 or more years of service, either a 7 percent wage increase or move to 10 percent above the start rate, whichever is higher;
 - b. Coffee Master and Black Apron eligibility with opportunities to visit Hacienda Alsacia;
 - c. Dress code updates relating to tattoos, piercings, and color palettes;

- d. Launching a Partner app designated with your input on tools and features;
 - e. Extending collaboration sessions to support partners, roasting plants, and retail leaders; and
 - f. Creating dedicated time for every store to connect.
- 8) On or about June 11, 2022, the Employer, in writing by a handout entitled “Creating Our Future Together as Partners,” promised its employees that it would implement the following benefits for employees at all U.S. stores, including those where employees have sought union representation:
- a. Increased wages for hourly employees beginning August 29, 2022, as previously announced in October 2021 as follows:
 - i. For those hired on or before May 3, 2022, either a 2 percent wage increase or an increase to \$15 per hour, whichever is higher; and
 - ii. For those with 2 years of experience, at least a 3 percent raise;
 - b. Double training time for new baristas and SSVs [shift supervisors] with more time, de-escalation and coffee education;
 - c. Immediately resolving all non-critical repairs and maintenance requests; and
 - d. Replacing store iPads with new models.
- 9) Beginning on or about August 1, 2022, the Employer withheld the following wage increases from its hourly employees at the Unionized and Unionizing stores:
- a. For those hired before May 2, 2022, either a 3 percent wage increase or an increase to \$15 per hour, whichever is higher;
 - b. For those with 2 to 5 years of experience, either a 5 percent wage increase or move to 5 percent above the start rate, whichever is higher; and
 - c. For those with 5 or more years of service, either a 7 percent wage increase or move to 10 percent above the start rate, whichever is higher.
- 10) Beginning on or about August 1, 2022, the Employer granted the following wage increases to its hourly employees at non-unionized stores:
- a. For those hired before May 2, 2022, either a 3 percent wage increase or an increase to \$15 per hour, whichever is higher;
 - b. For those with 2 to 5 years of experience, either a 5 percent wage increase or move to 5 percent above the start rate, whichever is higher; and
 - c. For those with 5 or more years of service, either a 7 percent wage increase or move to 10 percent above the start rate, whichever is higher.
- 11) On or about August 8, 2022, the Employer, in writing by a weekly corporate update, promised its employees that it would provide a free t-shirt by September 16, 2022, to employees who have participated in Barista Craft Training at its U.S. stores where employees have not sought union representation.

- 12) Since about June 20, 2022, on a date better known to the Employer, the Employer granted to its hourly employees at non-unionized stores its previous promises from May 3 and June 11, 2022, reinstating the Black Aprons and Coffee Master programs with the ability to visit the Employer's coffee farm.
- 13) Prior to August 8, 2022, on a date better known to the Employer, the Employer granted to its hourly employees at non-unionized stores its previous May 3, 2022, promise of providing new training opportunities by offering its Barista Training Program.
- 14) Prior to August 29, 2022, on a date better known to the Employer, the Employer granted to its hourly employees at non-unionized stores its previous May 3, 2022, promise of updated dress code policies by allowing extended color options, crewneck sweatshirts, jeggings, and white shoes.
- 15) Beginning on or about August 30, 2022, the Employer granted to its hourly employees at non-unionized stores its previous May 3, 2022, promise of extending collaboration sessions to support partners, by providing an additional 15 minutes for Performance & Development Conversations ("PDCs").
- 16) Since about June 20, 2022, the Employer withheld from its hourly employees at the Unionized and Unionizing stores those benefits implemented for its employees at non-unionized stores, noted above in paragraphs 12 – 15 because the Employer's employees at the Unionized and Unionizing stores joined a Union and engaged in concerted activities and/or to discourage employees from engaging in these or other Union or protected, concerted activities.
- 17) As of about September 16, 2022, Respondent granted to its employees at U.S. stores where they have not sought union representation its previous August 8, 2022, promise of free t-shirts to employees who participated in Barista Craft Training.
- 18) On or about September 19, 2022, Respondent granted to its hourly employees at non-unionized stores who had been employed for at least 90 days at that point, the following benefits:
 - a. My Starbucks Savings, which provides hourly employees at non-unionized stores who save money from their paychecks in a Fidelity account, a \$50/month contribution from the Employer and an \$25/quarter for their continued participation in the program. Once a balance of \$400 is attained there is an additional \$50 incentive available; and
 - b. Student Loan Management Tools.
- 19) Since on or about September 16, 2022, the Employer withheld from its hourly employees at the Unionized and Unionizing stores those benefits implemented for its employees at non-unionized stores, noted above in paragraphs 17 and 18.

An unfair labor practice hearing regarding the above allegations was held beginning on October 25, 2022. The parties are awaiting the administrative law judge's decision on the matter.

COMPLAINT ALLEGATIONS IN 03-CA-295810 ET AL.

On March 22, 2023, I issued an Order Further Consolidating Cases, Fourth Consolidated Complaint and Notice of Hearing in case 03-CA-295810 et al., which contains, inter alia, the following allegations related to the DelChip store:

- 1) On (b) (6), (b) (7)(C), 2022, the Employer violated Section 8(a)(3) of the Act by issuing employee (b) (6), (b) (7)(C) a final written warning;
- 2) On (b) (6), (b) (7)(C) 2022, the Employer violated Section 8(a)(3) of the Act by issuing employee (b) (6), (b) (7)(C) a documented coaching;
- 3) On (b) (6), (b) (7)(C) 2022, the Employer violated Section 8(a)(3) of the Act by discharging (b) (6), (b) (7)(C);
- 4) On (b) (6), (b) (7)(C) 2022, the Employer violated Section 8(a)(3) of the Act by issuing (b) (6), (b) (7)(C) a final written warning;
- 5) On (b) (6), (b) (7)(C) 2022, the Employer violated Section 8(a)(3) of the Act by discharging employee (b) (6), (b) (7)(C);
- 6) On (b) (6), (b) (7)(C) 2022, the Employer violated Section 8(a)(3) of the Act by discharging (b) (6), (b) (7)(C);
- 7) On (b) (6), (b) (7)(C) 2023, the Employer violated Section 8(a)(3) of the Act by issuing a final written warning to employee (b) (6), (b) (7)(C).

An unfair labor practice hearing regarding this complaint commenced on April 17, 2023.

COMPLAINT ALLEGATIONS IN 01-CA-305952 ET AL.

On April 25, 2023, the Regional Director of Region 19 issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in cases 01-CA-305952 et al. This complaint contains allegations, inter alia, that the Employer violated Section 8(a)(5) of the Act since August 5, 2022, by an ongoing failure and refusal to provide and/or delay in providing the Union with dates for an initial first contract bargaining session or sessions at the DelChip store. The complaint also alleges the Employer failed and refused to meet and bargain with the Union for a first contract.³ The complaint further sought an extension of the certification year at the DelChip store under the auspices of *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962).

An unfair labor practice hearing regarding this complaint is currently scheduled to begin on September 19, 2023.

³ This complaint alleges the Employer violated Section 8(a)(1) of the Act by on or about June 9, 2022, promising increased benefits at its U.S. stores and by informing its employees at U.S. stores that it would be futile for them to select the Union as their collective-bargaining representative.

THE POSITIONS OF THE PARTIES

The Petitioner and the Employer urge the Region to continue processing the decertification petition. The Petitioner asserts that employees at the DelChip store who supported the decertification petition did so of their own accord and that a year's representation was sufficient to determine that the unit employees wished to proceed without representation.

The Employer makes multiple arguments against dismissal of the instant petition. It argues initially that the Board's changes to its Rules and Regulations in 2020 eliminated the ability of Regional Directors to dismiss petitions based on allegedly meritorious unfair labor practice findings. The Employer also argues that the Board's decision in *Rieth-Riley Construction Co.*, supra, was wrongly decided, contending that it is inconsistent with the provisions of the Board's 2020 rule changes. The Employer further contends that, assuming that *Rieth-Riley* is proper law, the allegations contained in the above-listed complaints are insufficient to have caused disaffection for the Union as required by *Master Slack*, supra. Finally, the Employer contends that the *Master Slack* analysis, if undertaken, necessarily would require a hearing under *Saint Gobain Abrasives*, 342 NLRB 434 (2004) to determine the extent of the alleged disaffection before the petition could be dismissed.

The Union argues in favor of the petition being dismissed. The Union argues that the violations allegedly committed by the Employer in the above cases, as well as those contained in the complaint issue in cases 03-CA-285671 et al.,⁴ undoubtedly caused the disaffection underlying the decertification petition and requires its dismissal. The Union contends that the Employer's actions in response to unionizing are analytically similar to those considered by the Board in *Overnite Transportation Co.*, 333 NLRB 1392 (2001), and that the same result – dismissal of the decertification petition – is warranted in this matter.

ANALYSIS

Merit-Determination Dismissals:

As an initial matter, the Employer's argument that the Board's 2020 rule changes prohibit dismissal of the petition in this matter is without support. As the Board explained in *Rieth-Riley*:

In 2020, the Board issued the "Election Protection Rule" which...limited the circumstances in which Regional Directors could hold petitions in abeyance in the face of pending unfair labor practice charges. But the Election Protection Rule did not address the second aspect of the blocking-charge policy: merit-determination dismissals. [...] [W]e hold that merit-determination

⁴ The Union notes that with respect to cases 03-CA-285671 et al., Administrative Law Judge Michael Rosas found that the Employer committed multiple violations of Section 8(a)(1) and (3) affecting employees at the DelChip store, including discriminatorily disciplining an employee, granting a nationwide wage increase to discourage unionization, engaging in surveillance and creating the impression of surveillance, overstaffing the DelChip store, granting benefits to employees, temporarily closing the DelChip store, more strictly enforcing disciplinary policies in response to union activity, and changing policies regarding the picking up of shifts from other employees at the DelChip store.

dismissals remain available under the Election Protection Rule, a point on which the Board is unanimous.

371 NLRB at slip op. at 1 (footnotes omitted). Thus, the Board explicitly held that the Election Protection Rule did not impact the ability of Regional Directors to issue merit-determination dismissals.

Though the Employer contends that *Rieth-Riley* was improperly decided, Regional Directors are not empowered to overrule or decline to apply Board precedent. As such, *Rieth-Riley* remains applicable to the instant matter.

Applicable Legal Principles:

In *Rieth-Riley*, the Board defined “merit-determination dismissals” as those situations where a Regional Director elects “to *dismiss* a representation petition, subject to reinstatement, when the Regional Director (on behalf of the General Counsel) has found merit in an unfair labor practice charge involving misconduct that would irrevocably taint the petition and any related election.” *Id.* (emphasis in original).

The Board elaborated on the rationale for merit-determination dismissals in *Overnite Transportation Co.*, when it stated the following:

The Board generally will dismiss a representation petition, subject to reinstatement, where there is a concurrent unfair labor practice complaint alleging conduct that, if proven,...would interfere with employee free choice in an election, and...is inherently inconsistent with the petition itself. The Board considers conduct that taints the showing of interest, precludes a question concerning representation, or taints an incumbent union’s subsequent loss of majority support to be inconsistent with the petition.

333 NLRB at 1392-1393.

However, as the Board further noted in *Overnite Transportation*, supra, “[n]ot every unfair labor practice will taint a union’s subsequent loss of majority support or taint a decertification petition.” In such cases, “[t]here must be a causal connection.” *Id.* “[I]n cases involving unfair labor practices other than a general refusal to recognize and bargain, there must be specific proof of a causal relationship between the unfair labor practice and the ensuing events indicating a loss of support.” *Lee Lumber & Materials Building Corp.*, 322 NLRB 175, 177 (1996), *affd.* in part and remanded in part 117 F.3d 1454 (D.C. Cir. 1997).

The Board applies the analysis set forth in *Master Slack*, supra, in determining whether an employer’s unremedied unfair labor practices shared a causal connection with the filing of a decertification petition. The factors considered by the Board in that analysis are as follows, in pertinent part:

These factors include (1) the length of time between the unfair labor practices and the withdrawal of recognition or filing of the petition; (2) the nature of the illegal acts, including the possibility of their detrimental or lasting effect on employees; (3) any possible tendency to cause employee disaffection from the union; and (4) the effect of the unlawful conduct on employee morale, organizational activities, and membership in the union.

Rieth-Riley Construction Co., 371 NLRB at slip op. at 2 fn. 8, citing *Master Slack Corp.*, supra. The *Master Slack* test is an objective one in which the Board does not consider employees' subjective reasons for supporting a decertification petition. See *Denton County Electric Cooperative, Inc. d/b/a CoServ Electric*, 366 NLRB No. 103, slip op. at 3 fn. 10 (2018), enfd. in relevant part 952 F.2d 695 (5th Cir. 2020).

Separate of the “causal nexus” analysis performed under *Master Slack*, merit-determination dismissals are appropriate where the General Counsel seeks an affirmative bargaining order in the unfair labor practice complaint. *Rieth-Riley Construction Co.*, 371 NLRB at slip op. at 7, citing *Big Three Industries*, supra; *Brannan Sand & Gravel*, supra; and Section 11733.1(a)(2) of the Board's Casehandling Manual.⁵

The General Counsel's Request for a *Mar-Jac* Remedy Necessitates Dismissal:

As discussed above, the complaint in cases 01-CA-305952 alleges that the Employer violated Section 8(a)(5) of the Act by unlawfully delaying and refusing to meet with the Union for the purposes of negotiating an initial collective-bargaining agreement at the DelChip store. The complaint seeks an extension of the certification year for each of the bargaining units affected by this alleged conduct, including the unit of employees represented by the Union at the DelChip store.

In *Mar-Jac Poultry Co.*, supra, the Board held that an employer's refusal to bargain during the one-year certification period set forth in Section 9(c)(3) of the Act⁶ warrants extension of the certification year. The Board noted that allowing the certification year to elapse while an employer has delayed and undermined the bargaining process “would be to allow it to take advantage of its own failure to carry out its statutory obligation, contrary to the very reasons for the establishment of the rule that a certification requires bargaining for at least 1 year.” *Id.*

In *Big Three Industries*, supra, the Board held that dismissal of a decertification petition was warranted when an employer engaged in surface bargaining during the certification year. The Board noted that “if the allegations of the complaint be proved, the appropriate remedy would include an affirmative bargaining order, and an extension of the certification year...” *Id.* As such,

⁵ Section 11733.1(a)(2) states that “[i]f the Regional Director finds merit to charges involving violations of Section 8(a)(1), (2), (3), (5), or 8(b)(3), and the nature of the alleged violations, if proven, would condition or preclude the existence of a question concerning representation, the petition should be dismissed with a dismissal letter setting forth the specific connections between the alleged unfair labor practices and the petition, subject to a request for reinstatement by the petitioner after final disposition of the charge.”

⁶ Section 9(c)(3) states, in pertinent part, that “[n]o election shall be directed in any bargaining unit or any subdivision within which, in the preceding twelve-month period, a valid election shall have been held...”

“the Union’s certified representative status...is not vulnerable during compliance with an affirmative bargaining order.” *Id.*

The same is true here. The original certification year for the bargaining unit at the DelChip store elapsed on April 15, 2023. The instant petition was filed on April 28, 2023, less than a fortnight later. Thus, though the Board does not invariably extend certification years by one-year increments,⁷ virtually any extension of the certification year sought by the General Counsel would result in the petition being dismissed as untimely. As the Board requires, under this analysis, “we must presume the allegations true,”⁸ I am similarly compelled to conclude that the General Counsel’s seeking of an extension of the certification year will be granted such that it would preclude a question concerning representation at the time this petition was filed.⁹

CONCLUSION

It is hereby ordered that the petition in this matter is dismissed, subject to reinstatement.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67(c) of the Board’s Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the request for review must be served on each of the other parties as well as on the undersigned, in accordance with the requirements of the Board’s Rules and Regulations. The request for review must contain a complete statement of the facts and reasons on which it is based.

Procedures for Filing Request for Review: Pursuant to Section 102.5 of the Board’s Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency’s web site (www.nlrb.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Section 102.5(e) of the Board’s Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board’s Rules and Regulations. The request for review must comply with the formatting requirements set forth in Section 102.67(i)(1) of the Board’s Rules and Regulations. Detailed instructions for using the NLRB’s E-Filing system can be found in the [E-Filing System User Guide](#).

⁷ See, e.g., *Bridgestone/Firestone, Inc.*, 337 NLRB 133, 134 (2001), citing *JASCO Industries*, 328 NLRB 201 (1999) (Board reduced ALJ’s extension of certification year from 12 months to six months).

⁸ *Rieth-Riley Construction Co.*, 371 NLRB at slip op. at 5 fn. 27.

⁹ Based on this conclusion, I do not reach the issue of whether there is a causal nexus between the filing of the instant petition and the alleged unfair labor practices contained in the complaints issued in cases 03-CA-295810 et al., 19-CA-294579 et al., and 01-CA-305952 et al. Thus, I do not address the arguments raised by the Employer and the Union regarding the application of *Master Slack* and *Saint Gobain* to this proceeding. I do note, however, that I would not rely on the complaint allegations in case 03-CA-285671 et al. in any event, as all the allegations in that case that were pertinent to the DelChip store occurred before the Union won its initial election by an 18-1 margin.

A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business **(5 p.m. Eastern Time) on June 9, 2023**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time on June 9, 2023**.

Filing a request for review electronically may be accomplished by using the E-Filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which must also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Any party may, within 5 business days after the last day on which the request for review must be filed, file with the Board a statement in opposition to the request for review. An opposition must be filed with the Board in Washington, DC, and a copy filed with the Regional Director and copies served on all the other parties. The opposition must comply with the formatting requirements set forth in §102.67(i)(1). Requests for an extension of time within which to file the opposition shall be filed pursuant to §102.2(c) with the Board in Washington, DC, and a certificate of service shall accompany the requests. The Board may grant or deny the request for review without awaiting a statement in opposition. No reply to the opposition may be filed except upon special leave of the Board.

Dated: May 25, 2023

/s/Linda M. Leslie

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